

AUG 24 2007

Application No.: 10/688,303

Docket No.: SIW-067RCE2

REMARKS

Upon entry of this paper, claim 1 is amended. Claims 3, 4 and 7-15 are previously withdrawn from consideration. Claims 1, 6 and 16 are pending, of which claim 1 is independent. Applicants respectfully submit that the pending claims define over the art of record.

Examiner's Interview and Claim Amendments

Applicants thank the Examiner for the courtesy of a telephone interview conducted on August 16, 2007. During the interview, Applicants discussed with the Examiner that the cited references do not teach a diffusion layer that includes flow passage partitions formed within the diffusion layer itself to define the flow passages for a fuel or oxidizer, as recited in claim 1. The Examiner noted that such language will overcome the prior art of record.

Based on the discussion with the Examiner, Applicants amend claim 1 to recite that the diffusion layer includes a plurality of longitudinally extending flow passage partitions formed within the porous metal body to define the flow passage for a fuel or oxidizer. Support for the claim amendment can be found throughout the specification and specifically at page 4, line 24 – page 5, line 2 and page 7, lines 5-7 of the specification of the pending application. No new matter is added. For purposes of completeness, Applicants present below specific reasons why the claimed invention defines over the art of record.

Rejections under 35 U.S.C. § 103

Claims 1, 6 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Japanese Publication No. 2000-208153 (hereafter "JP'153").

Claims 1, 6 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the JP'153 reference in view of U.S. Patent No. 5,342,706 to Marianowski et al. (hereafter "Marianowski") or in view of U.S. Patent No. 5,531,956 to Ong et al. (hereafter "Ong").

Applicants respectfully traverse theses rejections.

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The JP'153 reference does not teach or suggest a diffusion layer that *includes a plurality of longitudinally extending flow passage partitions formed within the porous metal body to define a flow passage for the fuel or oxidizer*, as required by Applicants' amended claim 1.

The JP'153 reference teaches a contact portion (10) between the separator (1) and the diffusion layer (2). Amended claim 1 recites that the flow passage partitions are formed *within* the porous metal body. The contact portion (10) of the JP'153 reference does not teach or suggest forming reactant flow passages *within* the diffusion layer (2).

Although the Marianowski and Ong references teaches a flat separator, these references do not teach or suggest a diffusion layer that *includes a plurality of longitudinally extending flow passage partitions formed within the porous metal body to define a flow passage for the fuel or oxidizer* as required by Applicants' amended claim 1. In fact, the Marianowski and Ong references do not teach a diffusion layer at all.

Claims 6 and 16 depend from claim 1 and, as such, incorporate each and every element of claim 1. In light of the arguments presented above, the JP'153, Marianowski and Ong references do not teach or suggest each and every element of claim 1. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 6 and 16 under 35 U.S.C. §103(a).

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CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. SIW-067RCE2. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. § 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: August 24, 2007

Respectfully submitted,

By *Anthony A. Laurentano*
Anthony A. Laurentano
Registration No. 38,220
LAHIVE & COCKFIELD, LLP
One Post Office Square
Boston, Massachusetts 02109-2127
(617) 227-7400
(617) 742-4214 (Fax)
Attorney/Agent For Applicant